

26836. Adulteration of canned salmon. U. S. v. Berg & Co., Inc. Plea of guilty. Fine, \$100 and costs. (F. & D. no. 36948. Sample nos. 26560-B, 31393-B, 31398-B, 31400-B, 37580-B, 38085-B, 38087-B, 38088-B, 38095-B, 40529-B, 40562-B, 40802-B, 40803-B.)

These cases involved canned salmon that was in part decomposed.

On April 22, 1936, the United States attorney for the first division of the District of Alaska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Berg & Co., Inc., Ketchikan, Alaska, alleging shipment by said company, under the name of the Berg Packing Co., on or about August 2 and August 15, 1935, from the Territory of Alaska into the State of Washington of quantities of canned salmon that was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On May 23, 1936, a plea of guilty was entered on behalf of the defendant and on February 11, 1937, judgment was entered imposing a fine of \$100 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

26837. Adulteration and misbranding of condensed buttermilk, near-solid buttermilk, and milk powder. U. S. v. John A. Knudsen (Center Milk Products Co.). Plea of nolo contendere. Fine, \$25 on first count. Imposition of sentence suspended on remaining counts. (F. & D. no. 37038. Sample nos. 42626-B, 43537-B, 43538-B, 43824-B, 43825-B, 44719-B, 50456-B, 54062-B.)

The condensed buttermilk and near-solid buttermilk contained fat other than milk fat and certain lots contained less total fat than the amount declared. The milk powder consisted of skim-milk powder.

On June 9, 1936, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John A. Knudsen trading as Center Milk Products Co., Middlebury Center, Pa. with places of business at Knoxville, Pa., and Frankfort, N. Y., alleging that the defendant had shipped from Knoxville, Pa., and Middlebury Center, Pa., into the States of Connecticut, New Jersey, and Massachusetts between the dates of September 16, 1935, and October 29, 1935, quantities of condensed buttermilk and near-solid buttermilk; that the defendant had shipped from Frankfort, N. Y., into the State of Pennsylvania, on or about November 4, 1935, a quantity of milk powder; that the defendant also had shipped from Frankfort, N. Y., through the Middle District of Pennsylvania into the State of New Jersey a quantity of near-solid buttermilk; and that the products were adulterated and misbranded in violation of the Food and Drugs Act. The articles were labeled in part, variously: "Big Y Condensed Buttermilk From Churned Cream * * * Fat 2% * * * Mfg For Yantic Grain & Products Co. Norwich Conn."; "Vita Brand Near Solid Buttermilk From Churned Cream * * * Fat 2% * * * Center Milk Products Co. * * * Middlebury Center, Pa."; and "Vita Brand Milk Powder Full Cream Separated * * * Center Milk Products Co. * * * Middlebury Center Penna."

The condensed buttermilk and the near-solid buttermilk were alleged to be adulterated in that a substance, namely, fat other than milk fat, had been substituted in part for condensed buttermilk and near-solid buttermilk having a milk fat content amounting to 2 percent, which the articles purported to be. The milk powder was alleged to be adulterated in that skim-milk powder had been substituted for milk powder, which the article purported to be.

The articles were alleged to be misbranded in that the statements "condensed buttermilk", "near solid buttermilk from churned cream", and "milk powder" on the labels of the respective articles and the further statement "fat 2%", with respect to portions of the condensed buttermilk and near-solid buttermilk, were false and misleading and were applied to the articles so as to deceive and mislead the purchaser, since the products labeled "condensed buttermilk" and "near solid buttermilk" were composed in part of fat other than milk fat and a part thereof contained less than 2 percent of fat, and the product labeled "milk powder" was not milk powder but was skim-milk powder. The articles were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles.

On January 21, 1937, the defendant entered a plea of nolo contendere and the court imposed a fine of \$25 on the first count. Imposition of sentence was suspended on the remaining counts.

W. R. GREGG, *Acting Secretary of Agriculture.*